

significant paperwork requirements for gaming facility applicants and licensees.

6. **LOCAL GOVERNMENT MANDATES:** The proposed rules do not impose any mandatory program, service, duty, or responsibility upon local government because the licensing of gaming facilities is strictly a matter of State law.

7. **DUPLICATION:** The proposed rules do not duplicate, overlap or conflict with any existing State or federal requirements.

8. **ALTERNATIVES:** The Board is required to create these rules under Racing Law sections 1306(5) and 1321-e(1). The Board considered retaining existing minimum capital investment amounts for Title 2-A applicants in Zone Two (upstate counties) and setting minimum capital investment amounts by region or by county, but determined that setting a uniform minimum amount and allowing applicants to propose higher capital investment amounts as a part of their applications would best serve the competitive structure of the gaming facility application process.

9. **FEDERAL STANDARDS:** There are no federal standards applicable to the licensing of gaming facilities in New York because such licensing is solely in accordance with New York State law.

10. **COMPLIANCE SCHEDULE:** The Board anticipates that affected parties will be able to achieve compliance with the proposed rules upon the adoption of the rules.

Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

The proposed changes do not require a Regulatory Flexibility Analysis, Rural Area Flexibility Analysis or Job Impact Statement. There will be no adverse impact on small businesses, local governments, rural areas or jobs.

The proposed rules prescribe the minimum capital investment for an additional gaming facility license issued by the New York State Gaming Commission. It is not expected that any small business or local government will apply for a gaming facility license.

The proposal imposes no adverse economic impact or reporting, recordkeeping, or other compliance requirements on small businesses in rural or urban areas or on employment opportunities. The rules apply uniformly throughout the State to any applicant seeking a license to develop and operate an additional gaming facility in the State.

The proposal will not adversely impact small businesses, local governments, jobs, or rural areas. It does not require a full Regulatory Flexibility Analysis, Rural Area Flexibility Analysis, or Job Impact Statement.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

License Fee for Additional Gaming Facility

I.D. No. GFB-04-23-00002-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: Amendment of section 601.1 of Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 1306(4), (9) and 1321-e(3)

Subject: License fee for additional gaming facility.

Purpose: To establish a license fee for additional gaming facilities.

Text of proposed rule: § 601.1. Gaming facility license fees.

(a) The license fee for a gaming facility license issued by the Gaming Commission pursuant to [subdivision 4 of section 1315 of the] Racing, Pari-Mutuel Wagering and Breeding Law *Article 13, Title 2* shall be as follows, unless a gaming facility licensee has agreed to pay an amount in excess of the fees listed below:

(1) in Zone Two, Region One (Counties of Columbia, Delaware, Dutchess, Greene, Orange, Sullivan and Ulster), as such zone and region are defined in [section 1310 of the] Racing, Pari-Mutuel Wagering and Breeding Law *section 1310*, the following fees will apply to counties as designated below:

(i) \$70,000,000 for a gaming facility in Dutchess and Orange Counties;

(ii) \$50,000,000 for a gaming facility in Columbia, Delaware, Greene, Sullivan and Ulster Counties, if no license is awarded for a gaming facility located in Dutchess or Orange Counties; and

(iii) \$35,000,000 for a gaming facility in Columbia, Delaware, Greene, Sullivan and Ulster Counties, if a license is awarded for a gaming facility located in Dutchess or Orange Counties.

(2) \$50,000,000 in Zone Two, Region Two (Counties of Albany, Fulton, Montgomery, Rensselaer, Saratoga, Schenectady, Schoharie and Washington), as such zone and region are defined in [section 1310 of the] Racing, Pari-Mutuel Wagering and Breeding Law *section 1310*;

(3) in Zone Two, Region Five (Counties of Broome, Chemung (east of State Route 14), Schuyler (east of State Route 14), Seneca, Tioga, Tompkins, and Wayne (east of State Route 14)), as such zone and region are defined in [section 1310 of the] Racing, Pari-Mutuel Wagering and Breeding Law *section 1310*, the following fees will apply to counties as designated below:

(i) \$35,000,000 for a gaming facility in Broome, Chemung, Schuyler, Tioga and Tompkins Counties;

(ii) \$50,000,000 for a gaming facility in Wayne or Seneca Counties; and

(iii) \$20,000,000 for a gaming facility in Broome, Chemung, Schuyler, Tioga and Tompkins Counties, if a license is awarded for a gaming facility located in Wayne or Seneca Counties.

(b) *The license fee for a gaming facility license issued by the Gaming Commission pursuant to Racing, Pari-Mutuel Wagering and Breeding Law Article 13, Title 2-A shall be \$500,000,000, unless a gaming facility licensee has agreed to pay an amount in excess of that.*

[(b)] (c) A gaming facility licensee shall pay the required license fee by electronic fund transfer according to directions issued by the Gaming Commission.

Text of proposed rule and any required statements and analyses may be obtained from: Kristen Buckley, Gaming Commission, 1 Broadway Center, PO Box 7500, Schenectady, NY 12301, (518) 388-3332, email: sitingrules@nysemail.onmicrosoft.com

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 60 days after publication of this notice.

Regulatory Impact Statement

1. **STATUTORY AUTHORITY:** Racing, Pari-Mutuel Wagering and Breeding Law ("Racing Law") section 1306(1) and section 1321-b prescribe that the Gaming Facility Location Board, which is established by the Commission, shall issue a request for applications ("RFA") for applicants seeking one of the additional gaming facility licenses to develop and operate a gaming facility in New York State. On January 3, 2023, the Gaming Facility Location Board issued the RFA.

Racing Law sections 1306(4) and 1321-e(3) authorize the Board to determine a gaming facility license fee to be paid by an applicant.

Racing Law 1306(9) authorizes the Board to promulgate any rules and regulations that it deems necessary to carry out its responsibilities.

2. **LEGISLATIVE OBJECTIVES:** This rule making carries out the legislative objectives of the above referenced statutes by implementing the requirements of Racing Law section 1306(4) and section 1321-e(3).

3. **NEEDS AND BENEFITS:** This rule making is necessary to enable the Gaming Facility Location Board to carry out its statutory duty to prescribe the license fee for a gaming facility license issued by the Commission. Some stylistic amendments are also made to the existing rule to mirror Gaming Commission style conventions.

4. COSTS:

(a) Costs to the regulated parties for the implementation of and continuing compliance with the rules: An applicant chosen for gaming facility licensure will be required, by statute, to pay the license fee that is established.

(b) Costs to the regulating agency, the State, and local government: The proposed rules will impose no additional costs on the Board, the State or local governments.

(c) The information, including the source or sources of such information, and methodology upon which the cost analysis is based: The cost estimates are based on the Gaming Commission's experience regulating racing and gaming activities within the State.

5. **PAPERWORK:** The proposed rules are not expected to impose any significant paperwork requirements for gaming facility applicants and licensees.

6. **LOCAL GOVERNMENT MANDATES:** The proposed rules do not impose any mandatory program, service, duty, or responsibility upon local government because the licensing of gaming facilities is strictly a matter of State law.

7. **DUPLICATION:** The proposed rules do not duplicate, overlap or conflict with any existing State or federal requirements.

8. **ALTERNATIVES:** The Board is required to create these rules under Racing Law sections 1306(4) and 1321-e(3). Racing Law section 1321-e(3) requires a minimum license fee of \$500,000,000. The Board considered setting a higher license fee, but determined that setting the fee at the statutory minimum and allowing applicants to propose paying a higher fee as a part of their applications would best serve the competitive structure of the gaming facility application process. The Board also considered setting variable license fees according to the term of the license or the level of capital investment proposed, or setting different license fees according to the location of the gaming facility, but determined that a flat fee for all applicants would best serve the competitive structure of the gaming facility application process.

9. **FEDERAL STANDARDS:** There are no federal standards applicable to the licensing of gaming facilities in New York because such licensing is solely in accordance with New York State law.

10. **COMPLIANCE SCHEDULE:** The Board anticipates that affected parties will be able to achieve compliance with the proposed rules upon the adoption of the rules.

Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

The proposed changes do not require a Regulatory Flexibility Analysis, Rural Area Flexibility Analysis or Job Impact Statement. There will be no adverse impact on small businesses, local governments, rural areas or jobs.

The proposed rules prescribe the license fee for an additional gaming facility license issued by the New York State Gaming Commission. It is not expected that any small business or local government will apply for a gaming facility license.

The proposal imposes no adverse economic impact or reporting, recordkeeping, or other compliance requirements on small businesses in rural or urban areas or on employment opportunities. The rules apply uniformly throughout the State to any applicant seeking a license to develop and operate an additional gaming facility in the State.

The proposal will not adversely impact small businesses, local governments, jobs, or rural areas. It does not require a full Regulatory Flexibility Analysis, Rural Area Flexibility Analysis, or Job Impact Statement.

Department of Health

EMERGENCY RULE MAKING

Mpox to the List of Sexually Transmitted Diseases (STDs)

I.D. No. HLT-43-22-00003-E

Filing No. 7

Filing Date: 2023-01-04

Effective Date: 2023-01-04

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of section 23.1 of Title 10 NYCRR.

Statutory authority: Public Health Law, sections 225(4), 2304, 2305 and 2311

Finding of necessity for emergency rule: Preservation of public health.

Specific reasons underlying the finding of necessity: Compliance with the requirements of the State Administrative Procedure Act for filing of a regulation on a non-emergency basis, including the requirement for a period of time for public comment, cannot be met because to do so would be detrimental to the health and safety of the general public.

Mpox is a rare, viral infection that does not usually cause serious illness. However, it can result in hospitalization or death. Mpox can result in individuals experiencing severe pain requiring isolation and significant life disruptions as well as stigma. Health officials in New York State, the federal government, and in countries around the world are monitoring cases of mpox in areas that do not usually report mpox infections, including in New York State. Mpox spreads through close, physical contact between people. This means anyone can get mpox. However, based on the current outbreak, certain populations are being affected by mpox more than others, including gay/bisexual men and other men who have sex with men, transgender individuals, and non-binary individuals, among others.

As of August 26, 2022, there are 47,652 confirmed cases of mpox reported to the World Health Organization from 99 countries, of which 92 have not historically reported mpox.

On July 23, 2022, the World Health Organization designated mpox a public health emergency of international concern.

On August 4, 2022, the Secretary of Health and Human Services determined that as a result of the consequences of an outbreak of mpox cases across multiple states in the United States, a public health emergency exists nationwide. As of August 22, 2022, there are 17,432 confirmed mpox cases across all 50 states, the District of Columbia, and Puerto Rico.

On July 28, 2022, with the increase in mpox cases in New York State and more counties reporting cases, the New York State Commissioner of Health determined that mpox is communicable, rapidly emergent and a significant threat to the public health. Further, as one in five mpox cases in

the country are in New York State, Governor Hochul declared a State Disaster Emergency on July 29, 2022. As of November 21, 2022, New York State reports over 4,148 cases, the second largest number of cases in the country (California, with 5,572 cases, has the highest number). On October 6, 2022, the Public Health and Health Planning Council approved an emergency amendment to Section 23.1 of Title 10 of the Official Compilation of Codes, Rules and Regulations of the State of New York, adding mpox to the list of STDs. Since that time, the average weekly number of people under the age of 18 being vaccinated for mpox has remained stable, while the number of vaccinations among all other age groups combined has decreased by 360%.

This emergency regulation is necessary to confirm the Commissioner's designation of mpox as a sexually transmitted disease and to permit the Department to take necessary and appropriate action to prevent the spread of this communicable disease.

Subject: Mpox to the List of Sexually Transmitted Diseases (STDs).

Purpose: To add Mpox to the list of sexually transmitted diseases (STDs).

Text of emergency rule: Section 23.1 is amended to read as follows:

Group B

Facilities referred to in section 23.2 of this Part must provide diagnosis and treatment, including prevention services, as provided in section 23.2(d) of this Part for the following STDs:

Human Papilloma Virus (HPV)

Genital Herpes Simplex

Human Immunodeficiency Virus (HIV)

Mpox

This notice is intended to serve only as a notice of emergency adoption. This agency intends to adopt the provisions of this emergency rule as a permanent rule, having previously submitted to the Department of State a notice of proposed rule making, I.D. No. HLT-43-22-00003-P, Issue of October 26, 2022. The emergency rule will expire March 4, 2023.

Text of rule and any required statements and analyses may be obtained from: Katherine Ceroalo, DOH, Bureau of Program Counsel, Reg. Affairs Unit, Room 2438, ESP Tower Building, Albany, NY 12237, (518) 473-7488, email: regsqa@health.ny.gov

Regulatory Impact Statement

Statutory Authority:

Pursuant to sections 225(4), 2304, 2305 and 2311 of the Public Health Law (PHL), the Commissioner of Health and the Public Health and Health Planning Council have the authority to adopt regulations that list the sexually transmitted diseases (STDs) for which PHL Article 23 is applicable and, in particular, that establish requirements for local health departments (LHDs) concerning STD services.

Legislative Objectives:

PHL section 2311 requires the Commissioner of Health to promulgate a list of STDs. The purpose of Article 23 of the PHL, and its associated regulations, is to ensure that persons at risk for or diagnosed with an STD have access to diagnosis and treatment, including prevention services, thereby improving their health and public health in New York State. Additionally, providing STD diagnosis and treatment, including prevention services, is vital to protecting the health of newborn children whose mothers may have an STD.

Needs and Benefits:

This amendment adds mpox to Group B of the existing list of STDs. County LHDs already have an obligation to control the spread of mpox under PHL Article 6 communicable disease guidance. Consistent with such guidance, this regulation requires STD clinics operated by LHDs or providing services through contractual arrangements to provide diagnosis and treatment, including prevention services, to persons diagnosed or at risk for mpox, either directly or through referral. Further, minors will be able to consent to their own mpox testing, prevention services (including vaccine), and treatment.

This amendment supports the Department's plan to control the current and future mpox outbreaks by connecting persons diagnosed with, exposed to, or at risk of mpox with testing, vaccine, treatment, and prevention services. Young people currently face barriers that can prevent or delay access to care, including denial and fear of their mpox infection, misinformation, mpox-related stigma, low self-esteem, lack of insurance, homelessness, substance use, mental health issues, and lack of adequate support systems. Because of these factors, many young people need the ability to consent to mpox diagnosis and treatment, including prevention services.

These regulations will help ensure that more young people have optimal health outcomes and do not transmit the virus to others. In addition, young people will have the ability to consent to mpox related preventive services, including those who have been exposed to STDs or who are at high risk for mpox. Under the amended regulation, such individuals will be able to obtain mpox vaccine so they can remain mpox negative. These amendments are necessary to provide appropriate health care rights and